

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FRITZ BIANCULLI, LLC, d/b/a FRITZ  
BIANCULLI,  
Plaintiff,

v.

PATRICK MCCABE, *et al.*,  
Defendants.

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CIVIL ACTION

No. 24-cv-4741

**ORDER**

AND NOW, this 23<sup>rd</sup> day of May, 2025, upon consideration of Plaintiff's Motion to Dismiss the Amended Counterclaim of Defendant Patrick McCabe and Motion to Strike (ECF No. 51), and all responses thereto, for the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** as follows:

1. Plaintiff's Motion to Dismiss is **GRANTED in PART** and **DENIED in PART**:

a. Plaintiff's Motion is **GRANTED** for Count I. Count I is **DISMISSED**

**WITHOUT PREJUDICE**;

b. Plaintiff's Motion is **GRANTED** for Count II. Count II is **DISMISSED**

**WITHOUT PREJUDICE**; and

c. Plaintiff's Motion is **DENIED** for Count III.

2. Plaintiff's Motion to Strike is **GRANTED in PART** and **DENIED in PART**:

a. Plaintiff's Motion to Strike paragraph 75 of the Amended Counterclaim and

the associated "wherefore clause" is **GRANTED**;

b. Plaintiff's Motion to Strike paragraph 45 and a portion of the Preliminary

Statement of the Amended Answer is **DENIED**; and

c. Plaintiff's Motion to Strike paragraphs 4 and 12 of the Amended Answer is

**GRANTED** in accordance with the instructions in the Memorandum.

**IT IS SO ORDERED.**

BY THE COURT:

/s/ John Milton Younge  
**Judge John Milton Younge**